

City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
MEETING MINUTES

Wednesday, February 27, 2019

7:00 PM

Council Chambers A

Members Present:

David C. Richards, Chair
George S. Hansel
Bart K. Sapeta
Margaret M. Rice

Staff Present:

John Rogers, Building Official
Elizabeth Dragon, City Manager
Rhett Lamb, ACM/Community Dev. Dir.
Tom Mullins, City Attorney
Patti Little, City Clerk
Terri Hood, Assistant City Clerk

Members Not Present:

Philip M. Jones, Vice-Chair

Other Councilors Present

Randy Filiault
Terry Clark

Chair Richards called the meeting to order at 7:00 PM.

1. Periodic Report from Standing Boards and Commissions: Conservation Commission

Rhett Lamb, ACM/Community Development Director reported we are back on the cycle of your Advisory Committees providing periodic updates. Mr. Lamb introduced Sparky Von Plinsky, Chairperson, and Tom Haynes, former Chairperson, of the Conservation Commission.

Mr. Von Plinsky, of 18 Allen Court said he would cover what the Commission has done over the past 12 to 18 months and then where they see themselves being productive and helpful in the next year or two. Mr. Von Plinsky noted some of these things happened before he joined the Commission.

Greater Goose Pond Forest Stewardship Plan – This project moved from an RFP to a completed forestry plan over the past 18 months. Moosewood Ecological did the biological survey, forestry study, and trails survey. The initial public hearing attracted over 100 people. There were four walking tours of the property in the spring of 2018. The plan is almost ready for a second public hearing. The Commission is still working on the final report.

Aquatic Resource Mitigation Fund (ARM Fund) subcommittee – This subcommittee was formed with the purpose of aligning State ARM Funds with City Capital Improvement Projects (CIP's). The first project was the idea to protect Tenant Swamp with a conservation easement. After that idea was dropped, Commission members began meeting with City Engineers to identify "shovel ready" projects ARM funds could be applied toward. To that end five or six projects have been identified.

Conservation Master Plan - A retreat was held with Barbara Richter, Director of the NH Association of Conservation Commissions to learn about steps toward developing a Conservation Master Plan. She strongly suggested updating the City's Natural Resource Inventory for 2009. The latest Wildlife Action Plan should inform this process.

Public Outreach and Education – The four walks at Goose Pond that Mr. Haynes did a lot of work on and the Commission feels is a valuable mission moving forward.

Donations for Conservation Easements from Land Use Change Tax funds – The Commission approved funds for closing costs on two easements with the Monadnock Conservancy; a 130 acre parcel abutting the Gilsom town line near Goose Pond and a 60 acre parcel on Daniels Hill that abuts 800 acres of conserved land.

West Street Dam project – The Commission has been working with Dr. Emily Vogler from the Rhode Island School of Design (RISDE) regarding a charette she wants to conduct with landscape architecture students regarding options for West Street dam removal.

Wetlands Permits and working with other groups – Mr. Von Plinsky was unsure of the exact number of permits the Commission worked on. He noted working with Friends of Open Space, the Ashuelot River Advisory Committee, and the Climate and Energy Committee.

Mr. Von Plinsky noted the Commission's priorities moving forward as:

- Easement Monitoring of the five properties owned by the City
- Build on Success of Goose Pond Stewardship Plan and apply it to further such plans
- Proactive involvement in projects where possible through the CIP and ARM Fund
- Build on the Outreach Successes to raise the profile of the Commission

Suggesting he had nothing further to add, Mr. Von Plinsky deferred to Mr. Lamb. Mr. Lamb reported working on a date for a public forum regarding the Goose Pond Stewardship Plan. The forum is planned for the third week in March. Mr. Lamb noted the attendance at the April forum was upwards of 100 people and they are hoping for the same again in March.

Chair Richards asked Mr. Von Plinsky to explain the monitoring of the five parcels. Mr. Von Plinsky explained the City owns conservation easements on five properties around town and the Commission is the monitoring agent for the City. Mr. Von Plinsky said it has not been getting done as it should and he would like to get some training so the members know what they are supposed to do. At that point the properties could be walked (monitored) on an annual basis. Chair Richards also asked about expanding the parking at Goose Pond. Mr. Haynes replied it is in process. He explained they are doing some repairs to the dams and spillway. In order to get equipment in they

need to improve the road so that road will be kept a little more permanent to allow access. It will be handicap accessible as well. Chair Richards continued asking if this is part of the CIP. Mr. Lamb replied it is part of the Dam Improvement project already funded. Mr. Haynes added it will increase parking by 10 or 12 spaces.

Chair Richards asked for Committee questions/comments.

Councilor Sapeta thanked the Commission for the great work it does. He noted his interest in their outreach efforts and asked if could be increased to further include the younger generations. Mr. Von Plinsky agreed with Councilor Sapeta on the importance of this idea.

Councilor Hansel noted he is a member of the Commission. He noted one of the unique things the Commission does is serve as an interface for other non-profits in the City. Addressing Councilor Sapeta's question Councilor Hansel explained the Conservation Commission's role in the new Middle School's walkway into the wetlands area. Councilor Hansel also commented on the level of expertise on the Commission.

Chair Richards thanked the Commission for all the work it does and thanked Mr. Von Plinsky and Mr. Haynes for their presentation. Mr. Von Plinsky commented the Commission would like to be very helpful to the City.

There being no further questions from the Committee or public Chair Richards asked for a motion.

Councilor Hansel made the following motion which was seconded by Councilor Rice.

On a vote of 4-0, the Planning, Licenses and Development Committee moves to recommend the presentation be accepted as informational.

2. Austin Reid/Street & Savory, LLC - Request to Vend on Gilbo Avenue While Changes to Vending Ordinances are Being Considered

The applicant, Austin Reid, of 548 Alstead Center Road, Alstead was present. Chair Richards deferred to Elizabeth Dragon, City Manager for comments.

The City Manager said Mr. Reid is looking for some temporary relief while we work on ordinance changes. Providing a summary of where we are at the City Manager said once this was brought to our attention we did an invitation to all those holding Hawker and Peddler licenses. A meeting was held on February 7, 2019 to get an understanding of their business model, their operating challenges, and how we might be able to help them. There was not a lot of attendance; Mr. Reid attended and we did get some emails. Tonight we have what will be the first of several ordinance changes.

- Expanding the business hours – the issue before Committee this evening
- Identify mobile vending locations throughout the City – this will come to Committee next

The City Manager explained the final two changes are related to Zoning.

- Repeal language in the Zoning Ordinance relative to site plan review for mobile vendors occupying private property for more than one hour
- Incorporating the site plan review language in Chapter 46

The City Manager went on to explain the challenges Mr. Reida has faced since his last appearance before this Committee. She explained he was allowed to temporarily vend on Gilbo Avenue as a resolution to that situation. Continuing the City Manager said in order to address this we suggested we needed to come back to the Committee and amend his license; the reason we are here this evening. The amendment would address the issue of time, so he does not have to wait for our ordinances to be complete, and the issue of having a parking space as we have restrictions that do not allow for it. We wanted to be flexible but really did not have the tools.

Mr. Reida said how appreciative he was of the City's efforts in working with them. He continued the Gilbo Avenue spot would be tremendous for us as a secondary option. Mr. Reida also recommended it as a future spot for long-term food truck parking. Mr. Reida also shared they did not utilize the offer of Gilbo Avenue because the news came to them too late in the day. He noted Ted's has offered three parking spaces and we actually need four. Mr. Reida explained someone had parked in one of the spaces and left the area; essentially making the site nonfunctional for him. The Gilbo Avenue space would alleviate that concern. Mr. Reida also addressed the three spaces in front of the Transportation Center that could always be available, adding he certainly would pay the meters.

John Rogers, Building Official explained the mobile vendors we have traditionally seen around town are more of a fixed type vendor. We are learning the new mobile vendor wants to go where the people are. He noted there are tentacles throughout the Code regarding mobile vendors and we do not want to miss anything. Mr. Rogers said this is why we are taking this in bites. He also mentioned the Zoning process is a bit longer. Mr. Rogers noted the hour and definition changes that will be presented this evening. Mr. Rogers commented on the City's willingness to do all it can to help people like Mr. Reida succeed in Keene.

Patty Little, City Clerk said she would add another dimension to this business model that she finds exciting. Mr. Reida has the designated space at Ted's Shoe which is in his license and he is looking for some flexibility if an issue arises there. Mr. Reida also co-sponsors events with other commercial entities. Noting locations he has been found at the City Clerk explained how the use of social media has made these special events. She said we do not want to burden him with having to come and ask for a license for each time he is at a co-sponsored event. The City Clerk also mentioned Mr. Reida is interested in accepting invitations for private parties; much like a cash bar, another opportunity for a mobile vendor we had never thought of. Because ordinances take a while, the City Clerk said what we are looking for is some temporary relief for Mr. Reida while we are going through ordinance introduction and adoption process. It was recommended by the City Manager and City Attorney to amend Mr. Reida's license. She continued there is a restriction in Chapter 94 that we need to suspend; the restriction that says you cannot plug a parking meter. The motion in front of the Committee will suspend that restriction so that it remains a legal activity. Chair Richards commented this all makes sense and agreed the process would take time.

Councilor Hansel asked the City Clerk how the plugging suspension works and is it just related to this license. The City Clerk replied in the affirmative noting this is his temporary solution. It will be added to an ordinance that will apply to any mobile vendor. She continued by license you can suspend an ordinance. Councilor Hansel clarified this is just us doing what is needed for economic development for any business.

Councilor Sapeta commented great idea and welcomed Mr. Reida to Keene. Councilor Sapeta suggested he was interested in a map of mobile vendors for Keene so that people know where the trucks are. Mr. Reida commented that is a great idea and noted in other areas trucks are required to have trackers on them. He also explained Google calendar coincides with their websites. Mr. Reida also discussed briefly the potential for Uber Eats and Grub Hub to align with local restaurants.

Councilor Rice asked if Mr. Reida would like to plug his social media handles while we are on television. Mr. Reida provided the following:

- Street & Savory food truck
- Street & Savory Food Truck on Facebook
- @savoryfoodtruck on Twitter
- @savory.online on Instagram
- streetsavory.com is his website

Chair Richards asked if Mr. Reida forgets to plug the meters does he get three tickets. Mr. Lamb replied in the affirmative.

There being no questions from the Committee or public Chair Richards asked for a motion.

Councilor Rice made the following motion which was seconded by Councilor Hansel.

On a vote of 4-0, the Planning, Licenses and Development Committee moves to recommend that the City Clerk be authorized to amend the existing license issued to Austin Reida d/b/a Street and Savory to allow mobile food vending in city parking spaces at locations designated by City staff, excluding any usage during those times when said locations are licensed for other activities. Further, pursuant to section 94-153 (9) of the City Code, the City Council suspends section 94-152 (b) (1) relating to parking time restrictions for metered spaces associated with this use. Be it further recommended that the petitioners request to be open until 10:00 PM be granted.

Chair Richards thanked staff for stepping up to get Mr. Reida some help so he could function in his business.

3. Relating to Vendors - Time Limitations for Certain Activities Ordinance O-2019-03

The City Clerk introduced Terri Hood, Assistant City Clerk who would go through the details of the ordinance. She reiterated this is one of many to come before this Committee.

Ms. Hood commented this is Ordinance O-2019-03 which was prompted by a communication from Councilor Filiault. Ms. Hood said to date we have researched regulations in New Hampshire and then expanded sort of nationwide where food trucks are very popular. We found

most are regulating hours of operation in some fashion through code or administrative process. What we are proposing is an ordinance that strikes a balance between allowing vendors to operate whenever they please versus regulating it to some degree; allowing for some regulatory authority and flexibility. We are proposing to extend the hours later in the evening on a day to day basis, but anything that deviates from that would still come to the Council for permission. Continuing Ms. Hood said we did create some definitions for the activities that are occurring. We have provided definitions for mobile food vendors, fixed location food vendors, and frozen confection vendors. Ms. Hood explained the ordinance provides greater flexibility by allowing the vendors to stay open until 10:00 PM Sunday through Wednesday, and until 11:00 PM Thursday through Saturday. There have been no changes to the hours for frozen confection vendors. Vendors do have the opportunity to come back to Council if they need further hour extensions.

Chair Richards clarified staff talked to the existing vendors and Council still has the ability to change hours on a case by case basis. Ms. Hood affirmed.

Chair Richards asked for Committee questions/comments.

Councilor Hansel clarified the Council has the opportunity to extend the hours but not to reduce them. Chair Richards reiterated he thinks we have had five requests in the past and we granted all of them. The City Clerk agreed and added extending can also mean earlier in the day; before 7:00 AM.

Councilor Sapeta asked if we are checking their health licenses. The City Clerk noted the coordination with John Rogers and explained they do not get a vendor license until they have a health license.

Chair Richards asked for public comments/questions.

Councilor Filiault applauded the City Manager and staff for handling this so rapidly. Noting his issue with the ordinance Councilor Filiault asked the Committee to consider amending it so that the hours are unrestricted. He continued as Council always says yes; why even have the requirement for them to come back in? Councilor Filiault explained there is a market in Keene from 10:00 PM to 1:00 AM as most of the restaurant kitchens close at 9:00 PM. He also mentioned he has heard some would like to go out at 5:00 AM in the summer to do coffee and breakfast sandwiches. Councilor Filiault further noted that any disturbances are handled and licenses can be revoked.

Chair Richards said he would support the ordinance the way it is for now and explained his reasoning.

Chair Richards asked for public comments or questions.

Mr. Reida noted it is impossible to get something to eat after 9:00 PM in Keene. He provided a scenario where he partnered with three or four different bars that do not serve food beyond 9:00 or 10:00 PM and they had the opportunity to partner with them on a rotational basis; say one per

month. Mr. Reida then asked would we be able to come to Council and ask for that extension of hours on our license being non-site specific. Chair Richards commented replied in the affirmative adding now that we are talking about it, as staff has always taken care of this and just presented it to us he wonders if it has to come to Council or can it go to the City Clerk or Code. The City Manager replied you could do that by amending this ordinance to make it an administrative decision instead of Council. She also noted we would have to have a process in order to treat each vendor and request equally. Chair Richards agreed continuing as is was probably best as it would provide staff a chance to look at this possibility.

Councilor Hansel clarified as proposed this corresponds with the Noise Ordinance. He suggested you could not have an event after 11:00 PM in accordance with the ordinance. The City Attorney explained there are exceptions in the Noise Ordinance for activities that are otherwise permitted by the City through a license or permit. Councilor Hansel suggested the intent of the Noise Ordinance was to kind of shut things down in the City at 11:00 PM; he added he likes it being consistent. The City Manager explained we tried to mirror the Noise Ordinance and noted it is difficult to enforce. She continued the concern is noise and gathering. She provided a scenario of what happens after the bars and restaurants close and people return to their dwellings rather than gathering in outside places. The City Manager explained these gatherings would extend the activity in the downtown core and likely the Police activity as well. Mr. Reida said is it fair to assume that if we identify three or four spots that fall into all the other criteria that you would always consider granting that variance. The City Manager replied she is unsure if Council has ever extended a vendor until 1:00 AM. We are recommending between the 10:00 and 11:00 PM timeframe for extending the hours. She continued you do have the ability to ask Council for further extensions of those hours but that is another conversation that needs to be had. Chair Richards commented we have probably given staff more to think about tonight. This is just step one and we are trying to get everybody in a better place while these ordinances are developed.

Councilor Hansel said he did not want to put the responsibility on staff's shoulders and then have all the neighbors coming to them. He continued coming to Council gives more opportunities for neighbors to speak.

Councilor Sapeta commented our role is to balance. He recommends taking it slow; going step by step to test the waters. Councilor Sapeta supports the ordinance as is with more to come in the future.

Councilor Rice clarified Mr. Reida's question; if he applies for an extension and has three areas identified that he can go to, is it correct to say we do not have the answer to that right now. The City Manager replied we do not have the three locations.

Mr. Reida commented he does not in any way disagree with the proposed changes. He is trying to identify potential issues for the future.

Terry Clark, Councilor Ward 3 noted his memories of downtown at night and asked when and why did the time limitation start. The City Clerk advised her office would locate this information and report back.

There being no further questions or comments from the Committee or public Chair Richards asked for a motion.

Councilor Sapeta made the following motion which was seconded by Councilor Rice.

On a vote of 4-0, the Planning, Licenses, and Development Committee moves to recommend the adoption of Ordinance O-2019-03.

4. More Time Items

- a. Tim Zinn/Let it Shine - Request to Use City Property - 2019 Pumpkin Festival
- b. Pathways for Keene - Request to Use City Property - 4 on the 4th Road Race
- c. Councilor Filiault - Hours of Operation - Hawkers or Peddler's

Councilor Hansel moved to accept Councilor Filiault's letter as informational. Councilor Rice seconded the motion which carried on a vote of 4-0.

- d. Daron Friedman - Request to Acquire Property - Washington Street

5. Adjournment - There being no further business before the Committee Chair Richards adjourned the meeting at 7:57 PM.

Respectfully submitted by,
Mary Lou Sheats Hall
February 28, 2019